

REMARKS/ARGUMENTS

Claims 1-22 are pending in the present application. The Examiner has allowed claims 13, 14, 20, and 21. The Examiner has rejected claims 1, 4, 6-10, 15, 18, 19 and 22. The Examiner has objected to claims 2, 3, 5, 11, 12, 16, and 17. Applicant respectfully requests reconsideration of pending claims 1-12, 15-19, and 22.

The Examiner has rejected claims 1, 6, 8-10, 15, and 22 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,389,464 to Krishnamurthy et al. Applicant respectfully disagrees.

Regarding claim 1, Applicant notes the Examiner states, in the Examiner's "Response to Arguments," "Official notice is taken for a MIB being an SNMP compatible data structure that defines the functional groups and management objects of a unit or system." Applicant respectfully disagrees and traverses the Examiner's alleged "Official notice." For example, Applicant notes page 4, lines 8-16, of the specification, especially lines 12 and 13, which refer to "...Simple Network Management Protocol (SNMP)..." and lines 14-16, which state, "These prior art solutions did not include functional characteristics of the particular node in the information conveyed to the network manager, but rather would merely identify the type of node." Thus, Applicant submits the Examiner's attempt to take "Official notice" fails to comply with the requirements set forth in MPEP § 2144.03 and established in law. Thus, Applicant submits "the MIB files," fail to disclose "receiving a new set of indicators corresponding to a node in the network, wherein the new set of indicators includes functional characteristics of the node, wherein each indicator of the new set of indicators corresponds to a particular functional characteristic."

Applicant also notes that the Examiner appears to be unclear as to which elements of the cited reference the Examiner considers to teach "a new set of indicators." With respect to "receiving a new set of indicators...", the Examiner cites, "(col. 4 lines 44-53, see the MIB files)." However, with respect to "wherein each indicator of the new set of indicators corresponds to a particular functional characteristic," the Examiner cites, "(Web pages contain particular functional characteristics, Figures 4-29)." Thus, Applicant submits the alleged teachings are inconsistent and do not disclose the claimed invention as set forth in claim 1.

Applicant also notes the Examiner cites "(col. 4 lines 44-53, see devices to be managed from the site server" as allegedly disclosing "utilizing the database including the new set of indicators to

perform network management functions.” However, Applicant submits the cited portion of the cited reference fails to disclose “utilizing the database including the new set of indicators to perform network management functions.” While the Examiner appears to allege “a database for storing HTML pages and MIB files” (col. 4, lines 46 and 47) as disclosing “a database,” Applicant can find nothing in col. 4, lines 44-53, as cited by the Examiner, that would disclose “utilizing the database including the new set of indicators to perform network management functions.” Thus, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 1. Therefore, Applicant submits claim 1 is in condition for allowance.

Regarding claim 8, Applicant notes the Examiner cites “(configured, col. 6, lines 5-10; configure, col. 6 lines 20-25 and 45-50)” and “Fig. 2 ref. signs 12a and 12b and respective portions of the spec.) as allegedly disclosing “wherein performing network management functions further comprises configuring path endpoints in the network.” Applicant notes the cited portions of the cited reference refer to “...a user can configure a site server 12...” and “...the site server 12 is configured to perform PPP Dial-up routing on-demand, as well as dedicated routing,” which Applicant submits fails to disclose “utilizing the database including the new set of indicators to perform network management functions,” “wherein performing network management functions further comprises configuring path endpoints in the network.” Thus, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 8. Therefore, Applicant submits claim 8 is in condition for allowance.

Regarding claim 9, Applicant notes the Examiner cites “Ethernet, col. 5 lines 55-59, col. 6 line 45, col. 7 lines 25-30, col. 7 lines 35-58 and col. 11 lines 5-10)” and “(wireless, col. 4 lines 1-6; CMIP and TMN, col. 4 lines 10-15)” as allegedly disclosing “wherein the network is a communications network that includes one or more of Time Division Multiplexing, Frame Relay, asynchronous transfer mode, and wireless network formats.” Applicant notes the cited portions of the cited reference refer to “Ethernet” and, more specifically, to “10-BaseT Ethernet,” not “one or more of Time Division Multiplexing, Frame Relay, asynchronous transfer mode, and wireless network formats.” Moreover, while the Examiner states, in the Examiner’s “Response to Arguments,” “one skilled in the art would recognize that...CMIP and TMN are wireless network formats.” Applicant respectfully disagrees. Applicant notes the Examiner has not presented evidence to support the Examiner’s assertion that “one skilled in the art would recognize that...CMIP and TMN are wireless network formats.” Moreover, Applicant submits the Examiner has not shown what relevance “CMIP and TMN are wireless network

formats,” even if true, which Applicant disputes, would have, as the Examiner apparently does not allege obviousness with respect to “CMIP and TMN” at the time the invention was made. Thus, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 9. Therefore, Applicant submits claim 9 is in condition for allowance.

Regarding claim 10, Applicant notes the Examiner again apparently relies on the Examiner’s understanding “...that the MIB files includes functional characteristics because a MIB is a SNMP compatible data structure that defines the functional groups and management objects of a unit or system.” Applicant has traversed the Examiner’s attempt to take Official notice of such understanding with respect to claim 1. Applicant reiterates such traversal and the information cited by Applicant to show why the noticed fact would not have been considered to be common knowledge or well-known in the art at the time the invention was made. Thus, Applicant submits the cited portions of the cited reference fail to disclose the referenced feature of the present invention as set forth in claim 10.

Applicant also notes the Examiner cites “(col. 4, lines 43-53, here it is understood that the site server generates the indicators)” and “(Web pages contain particular functional characteristics, Figures 4-29)” as allegedly disclosing “generating a set of indicators corresponding to the functional characteristics, wherein each indicator of the set of indicators corresponds to a particular functional characteristic.” However, the Examiner appears not to attempt to identify any specific element of the cited reference as disclosing “a set of indicators.” Thus, Applicant submits the cited portions of the cited reference fail to disclose the referenced feature of the present invention as set forth in claim 10.

Applicant further notes the Examiner cites “(Fig. 6, ip_address; Figures 8, 10-14, cornet 16 channel a/b serial switch; Fig. 17, null Driver, Parallel Driver, Async serial Port, Intelligent Async Serial Port)” as allegedly teaching “combining the set of indicators with physical characteristic information of the node to produce the set of characteristics for the node.” However, Applicant submits the cited portions of the cited reference fail to disclose such “combining....” Thus, Applicant submits the cited portions of the cited reference fail to disclose the referenced feature of the present invention as set forth in claim 10.

For the foregoing reasons, Applicant submits the cited portions of the cited reference fail to disclose the present invention as set forth in claim 10. Thus, Applicant submits claim 10 is in condition for allowance.

Regarding claim 15, Applicant notes the Examiner again apparently relies on the Examiner's understanding "...that the MIB files includes functional characteristics because a MIB is a SNMP compatible data structure that defines the functional groups and management objects of a unit or system." Applicant has traversed the Examiner's attempt to take Official notice of such understanding with respect to claim 1. Applicant reiterates such traversal and the information cited by Applicant to show why the noticed fact would not have been considered to be common knowledge or well-known in the art at the time the invention was made. Thus, Applicant submits the cited portions of the cited reference fail to disclose the referenced feature of the present invention as set forth in claim 15.

Applicant also notes the Examiner cites "(database, col. 4, lines 44-50)," "(devices, col. 4 lines 27-32)," "attributes of the device, col. 4 lines 44-53,...," and "(Web pages contain particular functional characteristics, Figures 4-29)" as allegedly disclosing "store a received new set of indicators in a database, wherein the new set of indicators corresponds to a node in a network, wherein the database includes indicators corresponding to at least one additional node in the network, wherein the new set of indicators includes functional characteristics of the node, wherein each indicator of the new set of indicators corresponds to a particular functional characteristic." However, the Examiner appears not to attempt to identify any specific element of the cited reference as disclosing "a set of indicators." Thus, Applicant submits the cited portions of the cited reference fail to disclose the referenced feature of the present invention as set forth in claim 15.

Applicant further notes the Examiner cites "(manage a particular device, col. 4 lines 44-64)" as allegedly disclosing "perform network management functions based on the database including the new set of indicators." However, Applicant submits the cited portion of the cited reference fails to disclose "perform network management functions based on the database including the new set of indicators." While the Examiner appears to allege "a database for storing HTML pages and MIB files" (col. 4, lines 46 and 47) as disclosing "a database including the new set of indicators," Applicant can find nothing in col. 4, lines 44-64, as cited by the Examiner, that would disclose "perform network management functions based on the database including the new set of indicators." Thus, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 15. Therefore, Applicant submits claim 15 is in condition for allowance.

Regarding claim 22, the Examiner cites "(Web pages contain predetermined arrangements, Fig. 4-29)" and "(Fig. 6, ip_address; Figures 8, 10-14, cornet 16 channel a/b serial switch; Fig. 17, null Driver, Parallel Driver, Async serial Port, Intelligent Async Serial Port)" as allegedly disclosing

“wherein each set of indicators includes indicators in a predetermined arrangement, wherein position in the predetermined arrangement corresponds to representation of a functional characteristic.” Applicant respectfully disagrees. Applicant submits the Examiner’s apparent identification of such features of the cited reference as allegedly disclosing a “set of identifiers” is contradicted by the Examiner’s assertions with respect to claim 10 from which claim 22 depends. Moreover, Applicant submits such features of the cited reference lack disclosure as to “wherein position in the predetermined arrangement corresponds to representation of a functional characteristic.” Thus, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 22. Therefore, Applicant submits claim 22 is in condition for allowance.

The Examiner has rejected claims 4, 7, 18, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Krishnamurthy et al. in view of Rose et al. Applicant respectfully disagrees.

Regarding claim 4, the Examiner states, “...Krishnamurthy et al....does not explicitly teach wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds. Rose et al. discloses MIBs with multiple hierarchical levels in (pages 5-7, 10-14 and 16-18).” The Examiner concludes, “...it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds because MIBs are hierarchical data structures.” Applicant respectfully disagrees. Applicant cannot find description of multiple hierarchical levels in “(pages 5-7, 10-14 and 16-18)” of Rose et al. Moreover, Applicant has traversed the Examiner’s attempt to take Official notice of understanding concerning MIBs with respect to claim 1. Applicant reiterates such traversal and the information cited by Applicant to show why the noticed fact would not have been considered to be common knowledge or well-known in the art at the time the invention was made. Thus, Applicant submits the cited portions of the cited reference fail to disclose or render obvious the referenced feature of the present invention as set forth in claim 4. Therefore, Applicant submits claim 4 is in condition for allowance.

Regarding claim 7, the Examiner states, “...Krishnamurthy et al....does not explicitly teach wherein performing network management functions further comprises determining routing paths in the network. Rose et al. discloses routing tables defined by MIBs on (page 10).” The Examiner concludes, “...it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included wherein performing network management functions further

comprises determining routing paths in the network because routing table entries are defined in MIBs.” Applicant respectfully disagrees. Applicant submits the Examiner mischaracterize the teachings of Rose et al. While the Examiner states, “Rose et al. discloses routing tables defined by MIBs on (page 10),” Applicant notes Rose et al., on page 10, states, “For example, the notion of an entry in a routing table might be defined in the MIB.” Applicant notes claim 7 does not recite defining “notions.” As Applicant pointed out with respect to claim 1, Applicant can find nothing in col. 4, lines 44-53, as cited by the Examiner, that would disclose “utilizing the database including the new set of indicators to perform network management functions.” Even if Rose et al. teaches, “...the notion of an entry in a routing table might be defined in the MIB,” Applicant submits the Examiner has still not cited evidence to support teaching as to “utilizing the database including the new set of indicators to perform network management functions.” Thus, Applicant submits claim 7 is in condition for allowance.

Regarding claim 18, the Examiner states, “...Krishnamurthy et al....does not explicitly teach wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds. Rose et al. discloses MIBs with multiple hierarchical levels in (pages 5-7, 10-14 and 16-18).” The Examiner concludes, “...it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds because MIBs are hierarchical data structures.” Applicant respectfully disagrees. Applicant cannot find description of multiple hierarchical levels in “(pages 5-7, 10-14 and 16-18)” of Rose et al. Moreover, Applicant has traversed the Examiner’s attempt to take Official notice of understanding concerning MIBs with respect to claim 1. Applicant reiterates such traversal and the information cited by Applicant to show why the noticed fact would not have been considered to be common knowledge or well-known in the art at the time the invention was made. Thus, Applicant submits the cited portions of the cited reference fail to disclose or render obvious the referenced feature of the present invention as set forth in claim 18. Therefore, Applicant submits claim 18 is in condition for allowance.

Regarding claim 19, the Examiner states, “...Krishnamurthy et al....does not explicitly teach wherein performing network management functions further comprises determining routing paths in the network. Rose et al. discloses routing tables defined by MIBs on (page 10).” The Examiner concludes, “...it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included wherein performing network management functions further

Application No: 09/418,647

PATENT

comprises determining routing paths in the network because routing table entries are defined in MIBs.” Applicant respectfully disagrees. Applicant submits the Examiner mischaracterize the teachings of Rose et al. While the Examiner states, “Rose et al. discloses routing tables defined by MIBs on (page 10),” Applicant notes Rose et al., on page 10, states, “For example, the notion of an entry in a routing table might be defined in the MIB.” Applicant notes claim 19 does not recite defining “notions.” As Applicant pointed out with respect to claim 19, Applicant can find nothing in col. 4, lines 44-53, as cited by the Examiner, that would disclose “perform network management functions based on the database including the new set of indicators.” Even if Rose et al. teaches, “...the notion of an entry in a routing table might be defined in the MIB,” Applicant submits the Examiner has still not cited evidence to support teaching as to “perform network management functions based on the database including the new set of indicators.” Thus, Applicant submits claim 19 is in condition for allowance.

The Examiner has allowed claims 13, 14, 20, and 21. The Examiner has objected to claims 2, 3, 5, 11, 12, 16, and 17 as being dependent upon a rejected base claim, but states that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has presented reasons for the allowability of claims from which the objected claims depend. Therefore, Applicant submits claims 2, 3, 5, 11, 12, 16, and 17 are also in condition for allowance.

In conclusion, Applicant has overcome all of the Office’s rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

11/03/2005

Date



Ross D. Snyder, Reg. No. 37,730
Attorney for Applicant(s)
Ross D. Snyder & Associates, Inc.
PO Box 164075
Austin, Texas 78716-4075
(512) 347-9223 (phone)
(512) 347-9224 (fax)